

EXHIBIT 2

DATE 02/15/13

HB 406

Mr. Chairman, and members of the committee, thank you for the opportunity to share my thoughts on House Bill 406. My name is Anne Ostby. I am an attorney from Dagmar.

I support HB 406 because it recognizes the difference between the ownership of a mineral right and the holding of a leasehold interest by reducing what an unleased mineral owner pays as a risk penalty and increasing the standard royalty. It should help limit the abuse of mineral owners by rogue players in the oil and gas industry.

Having a different risk penalty rate for unleased mineral owners recognizes the difference between penalizing a company that has chosen to enter the oil development by leasing minerals and will not voluntarily pool and penalizing a mineral owner who is being asked to give up control of their mineral rights. Businesses who have acquired leasehold interests have both the access to financial resources and the background to assess the risks involved in deciding whether or not to participate in a well. A negotiation between two knowledgeable parties who can predict the risk of a proposed drilling plan is very different than the negotiation of a mineral owner and someone in the industry. When the state provides industry with the threat of compulsory pooling, it adds to the disparity. While compulsory pooling should be a tool of last resort, the reality on the ground is that it is used frequently to scare people into signing leases that are not in their best interest. Signing a lease means giving up control of the minerals whether wells are drilled or not.

The right to receive a royalty upon production is an essential attribute of the mineral estate. When the compulsory pooling statute was enacted a 1/8th royalty was probably appropriate since it was so commonly used. Today, it is no longer justifiable since it is below the market standard. Evidence of this is that the state standard for leasing minerals involves a 1/6th royalty. I would suggest that a sixth is a minimum amount for the committee to consider- another option would be a weighted average royalty interest of the leased tracts within the spacing unit but never less than 1/6th.

Compulsory pooling is an important tool for the state. However, when the state wields that power it needs to recognize that it is interfering with private contracting. What Representative Knudsen's bill does is balance the need in the industry to have a process to avoid the free rider problem with the need to ensure that mineral owners' property rights are protected.